

## **Eastern District Bar Advisory Committee Notes**

**August 12, 2003**

*In attendance: Jean Rolfs, Karen Waldroff, Linda Green, Charles Tucker, Jo-Ann Goldman, Warren Dupwe, Ralph Waddell, Eddie Schieffler, Charlie Coleman, Joe Kolb, Rosalind Mouser*

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**Issue:** Eastern and Western databases are separate. Sometimes attorneys want to query the entire state of Arkansas for a particular debtor.

**Solution:** When you want to search the entire state for a particular debtor, go to the national PACER website at: <http://pacer.uspci.uscourts.gov/> and search using the national database. This search is the usual .07 per page.

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**Issue:** The receipts the ECF system prints after attorneys enter a credit card to pay a filing fee are difficult to utilize for internal accounting because they do not refer back to a specific case number.

**Solution:** There is a report that can be generated to obtain this information. In CM/ECF, go into "Utilities" and select "Internet Payment History." This screen will show payments made and tie payments to specific case numbers.

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**Issue:** Need to have both Eastern and Western databases open simultaneously.

**Solution:** Log into your browser, then log onto one database. Minimize the screen, log into your browser again, then log onto other database. Can keep both Eastern and Western databases open at the same time.

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**Issue:** Chuck Tucker mentioned the Judges are looking at the pros and cons of the Debtor's Monthly Operating Report in Chapter 11 cases. The reports are currently using the cash basis of accounting and not accrual basis of accounting. Chuck requested input following the meeting from those affected by these requirements.

**Discussion:** Attorneys recommended that debtor's be allowed to file financial statements prepared by accountants who prepare the debtor's internal Profit & Loss Statements, Income Statements, and Balance Sheets in forms using generally accepted accounting practices. The UST required forms are hybrid forms none of their accountants use and are difficult to prepare.

Chuck explained that the required form was designed so that the Judges and the Trustees can have the exact same information in the same format

on each case. Also, the items on the required report are those considered to be “most important” to those reviewing them in the context of the Chapter 11. In addition, the required statement puts the burden on the debtor to cull all the information, instead of on the Judge, Trustee, or AUST.

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**Issue:** The quality of the 341(a) meeting tapes are not acceptable. They are sometimes inaudible. Some attorneys spend up to \$800 to take Court Reporters to First Meetings just to get a good record. Some attorneys tell the Creditors to not even bother going. Discussed possibility of digital recorders, and need for omni-directional mikes.

**Solution:** Chuck Tucker will look into the quality of 341(a) meeting tapes. On August 13, Chuck Tucker issued an e-mail which addressed this issue.

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**Issue:** The effect of the new Negative Noticing procedures for Motions for Relief from Stay in Chapter 13.

**Discussion:** There was much discussion about the pros and cons of the new Negative Noticing procedure. The group agreed that the process works well in Chapter 7's but does not work as well in Chapter 13. Neither the debtor nor creditor representatives were happy with the new procedures for various reasons.

The debtor bar is concerned about liability issues if a response is not filed. This is prompting some attorneys to file a general denial in every case. This is creating more work for the creditor and the debtor bar and negating the positive effect of the system.

There was some discussion about whether the hearing dates were being set immediately and that maybe there was some delay in getting the matter onto the court's docket.

The trustee is concerned about signing the Orders when they are no longer Agreed Orders and do not have the debtor's attorney's signature.

There was discussion about the signature requirements on the Orders being burdensome. Creditor's attorneys do not like getting the debtor's signature because some debtor's attorneys do not send them back. The creditor's attorneys stated that they did not want to get the debtor's attorney's signature on orders that are entered for Motions without a response because it would negate any positive effect the negative noticing provided. Some attorneys are spending 30 minutes to an hour on each file, just to get all the signatures.

It was announced that the judges were meeting with the Chapter 13 trustee's and the UST on August 18, 2003 and this topic was on that agenda.

Discussion then took place about the general signature requirements on Orders. The creditor attorneys did say that even though they do not like getting the trustee's signature on every order that the Chapter 13 Trustees are prompt and usually sign orders within 24 hours. There was some discussion of the inconsistency of signature requirements with the three judges.

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**Issue:** It was announced that Judge Taylor entered a written opinion in a Chapter 13 case (Lynetha Dorn) that specifically states that objections to confirmation in a Chapter 13 case must be filed within 10 days of the first meeting of creditors in accordance with our General Order 20. There is rumor that Judge Evans may have a case and may do the same.

**Discussion:** An appeal has been filed which raises the issue of whether our General Order 20 is in conflict with Bankruptcy Rule 9006 which says the court cannot reduce the amount of time to object, and Rule 3015 (F) which allows an objection any time prior to confirmation of the plan. Creditor attorneys should be aware of the strict reading for objection times in Chapter 13's

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**Issue:** The committee recognized that ECF is working very well. For those outside of Little Rock, it's an enormous timesaver. Access to information is wonderful through CM/ECF. There was some comment that with ECF some attorneys are printing more information, which may have associated costs. However, it was pointed out that photocopying petitions and other things from the paper files was eliminated. There was discussion between attorneys on how much truly needs to be printed.

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**Issue:** Within the last two weeks (since Clerk's Office conversion to CM/ECF Version 2.2), there have been some problems getting documents off the docket report. Some users have to re log-in after a specific amount of time. Also, the system gives a warning that someone else is logged in under their name.

**Solution:** Karen said this is a Version 2.2 security feature. If the message comes up that someone else is logged in under their name (and the user is certain this is not true), they should click on "Continue Log-in."

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**Issue:** There is a problem when debtor's attorneys never show up to 341(a) meetings. It is also frustrating when it is obvious that attorneys are meeting their clients for the very first time at creditor meetings.

**Solution:** Chuck Tucker said to refer these cases to him. His office is investigating these complaints. Chuck also stated that the committee should feel free to bring issues to the meeting regarding problems with the UST's office or any of the panel or standing trustees.

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**Next Meeting:**

**February 25, 2004 (following Debtor Creditor Bar Meeting) 1:30 pm, U.S. Bankruptcy Courthouse, Little Rock, 2<sup>nd</sup> Floor Conference Room**